

1 which is necessary to construct the Santa Clara Project, in accordance with 25 U.S.C. §§ 323-328  
2 and 25 CFR Part 169 (the "Shivwits Right-of-Way").

3           6.4.3 The Shivwits Right-of-Way shall be a permanent, exclusive easement for the  
4 Santa Clara Project facilities, subject to the existing highway and the Ivins Canal, and shall include  
5 a temporary construction easement.

6           6.4.4 Payment for the temporary construction easement shall be \$4,000.00.

7           6.4.5 The initial payment for the Shivwits Right-of-Way shall be \$1,500.00 per  
8 year for a period of 25 years. The payment shall be made on a calendar year basis. The payment  
9 for the first year of the Shivwits Right-of-Way shall be due and payable directly to the Shivwits  
10 Band within thirty days from the date WCWCD receives notice that the Secretary has approved  
11 the Shivwits Right-of-Way and shall be prorated based on the calendar year. The payment each  
12 year thereafter shall be due and payable on January 15 of each calendar year. Annual payments  
13 shall continue thereafter, in accordance with this subsection and in accordance with subsection  
14 6.4.6.

15           6.4.6 There shall be new appraisals for the Shivwits Right-of-Way made at the end  
16 of each 25 year period. One appraisal shall be conducted by the Shivwits Band and one appraisal  
17 conducted by the WCWCD, or any successor operator of the Santa Clara Project. The value for  
18 each succeeding 25 year period shall be the average value and average rate of return of the two  
19 appraisals. Both appraisals must be performed by MAI licensed appraisers and use generally  
20 accepted standards for appraising rights of way and rates of return.

21           6.4.7 The payment for the Shivwits Right-of-Way shall be paid to the Shivwits  
22 Band by the WCWCD, or any successor operator of the Santa Clara Project, and shall be included  
23 as an operation and maintenance cost. The sole remedy for default with respect to the Shivwits  
24 Right-of-Way compensation provided for herein shall be an action for specific performance. The  
25 WCWCD, or any successor operator of the Santa Clara Project, shall be liable for any payment  
26 regardless of whether any water user is in default in its OMR&R payments.

27           6.4.8 The Shivwits Band, and the United States acting for the benefit of the  
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